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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,338	08/23/2001	Ran Oz	ABS-002	1810
21323	7590	09/22/2005	EXAMINER	
TESTA, HURWITZ & THIBEAULT, LLP HIGH STREET TOWER 125 HIGH STREET BOSTON, MA 02110			BOAKYE, ALEXANDER O	
			ART UNIT	PAPER NUMBER
			2667	
DATE MAILED: 09/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,338

Applicant(s)

OZ ET AL.

Examiner

ALEXANDER BOAKYE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 77-97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 77-87 is/are allowed.
- 6) ☒ Claim(s) 88 and 96 is/are rejected.
- 7) ☒ Claim(s) 89-95 and 97 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/12/02:8/30/01, 08/23/01</u> | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 88 is rejected under 35 U.S.C. 102(e) as being anticipated by Pfeffer (US Patent # 6, 128,293).

Regarding claim 88, Pfeffer teaches method for directing a packet in a communication switching system (Fig.2) comprising the steps of: rate adapted multiplexing, over data-over- broadband network transmission, when the packet is a part of a media session over data-over-broadband network transmission, authorized for rate adaptation multiplexing (column 4, lines 49-59; column 6, lines 63-67; SAU 12 of Fig. 2 is a broadband network because it is a multi service management system); a rate adapted multiplexing the packet, over media-over-broadband network transmission, when the packet is a part of a media session over media-over-broadband network

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transmission, authorized for rate adaptation multiplexing (column 4, lines 49-59; column 6, lines 63-67).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 96 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeffer (US Patent # 6,128,293) in view of Davenport et al. (US Patent # 5,652,749).

Regarding claim 96, Pfeffer teaches rate adaptation multiplexing (column 4, lines 49-59). What Pfeffer does not disclose is MPEG transport. However, Davenport discloses MPEG transport (column 5, lines 34-39). One of ordinary skill in the art would have been motivated to incorporate MPEG transport into the communication network of Pfeffer in order to be able to transport video services. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate MPEG transport such as the one taught by Davenport into the communication network of Pfeffer with the motivation being that it provides capability for the system to transport video services to users.

Allowable Subject Matter

3. Claims 89-95 and 97 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 77-87 are allowable.

The following is a statement of reasons for the indication of allowable subject matter: As to claims 77-87, the prior art of record does not teach a downstream re-multiplexing engine, coupled to the packet switch engine and to a plurality of downstream transmit units and a plurality of media-access controllers coupled to the downstream re-multiplexing engine, the packet switch engine and to upstream channels, the media-access controllers provide packets received from the upstream channels either to the downstream re-multiplexing engine or to the packet switch engine, according to packet content type and packet original destination.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571) 272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (571) 272-3179. The Central Fax number is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Electronic Business Center numbers 866-217-9197 and 703-305-3028.

Alexander Boakye

Patent Examiner

AB
9/17/05


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2667 9/19/05